

Application No.: 10/683,538

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Docket No.: 145642000100

REMARKS

In the non-final Office Action mailed on February 8, 2006, claims 1-24 were rejected. Applicants request reconsideration of the pending claims in view of the following remarks. Applicants would like to thank the Examiner for the withdrawal of his previous rejections of the claims.

I. Claim rejections -- 35 U.S.C. § 102

The Examiner has rejected claims 1-3 as being anticipated by U.S. Patent No. 5,727,690 (Hofmeister). Although the Examiner rejected claims 1-3, he mentions in this section of the office action claims 16-18, 22 and 23. Therefore, Applicants assume the Examiner meant to reject claims 1-23.

Amended claims 1 and 15 recite, in part: "one or more screens having a plurality of screen apertures, wherein the plurality of screen apertures have a shape and size suitable to separate the core pieces from the mixture based on their dimensions." Claim 16 recited, in part, "separating core pieces from the mixture based on their dimensions using the one or more screens."

Applicants assert Hofmeister does not disclose these claim limitations. Instead, Hofmeister discloses using an air stream to separate the high density undesirable parts of the leafy vegetable from the low density leafy vegetable material.

Hofmeister discloses cutting a head of lettuce into a mixture of both desirable and undesirable portions. An air stream is used to separate the light leafy portions from the heavy core portions based on their densities. In particular, Column 3, line 58-61 discloses: "The cut heavy density material, particularly the core, heart, ribs and veins drop through the air stream in the gravity/air separation device 20 and are discharged out of the bottom 54."

Hofmeister discloses, at column 4, line 26, that the gravity/air separation device includes a vibrating feed screen, which is labeled as number 52 in figure 5. Underneath this vibrating feed screen is an outlet hopper, labeled as 54a in figure 5. This outlet hopper collects the undesirable

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parts of the process, which includes two types of materials. One type of material is the undesirable heavy part of the lettuce. The second type of material which ends up in the outlet hopper is undesirable non-lettuce material, such as nuts, bolts, pieces of wood, etc.

In particular, column 4, line 31 states "The outlet hopper 54a receives the cut out cores, hearts, ribs, and veins of the lettuce as well as other undesirable solids, such as nuts, bolts, pieces of wood and other types of material which have been found in the lettuce which have been picked up both from the field where the lettuce is grown as well as those solids which have been picked up during the transporting of the lettuce from the field to the processing plant."

These two types of waste found in the outlet hopper come from two distinct places. The undesirable lettuce material (i.e., cut out cores, hearts, ribs, and veins) is separated from the desirable lettuce material in the air stream separation device, where due to its density these core portions fall to the bottom. The non-lettuce material (i.e., nuts, bolts, pieces of wood, etc.) is separated from the lettuce mixture by the vibrating feed screen. In essence, the cutting operation creates a mixture of leafy portions, core portions, and non-lettuce material. The vibrating feed screen removes the non-lettuce material which leaves a mixture of leafy and core portions. The air stream then separates the core portion from the desirable leafy portion.

Column 4, line 28 states: "An outlet hopper 54a is disposed beneath the vibrating screen 52 to receive any undesirable heavy material which may be caught in the head of lettuce." First, it is unreasonable to conclude from this disclosure that the vibrating feed screen separates core pieces because core pieces are not caught in a head of lettuce. Instead, the term "heavy material" in this cited portion refers to the non-lettuce material (i.e., nuts, bolts, pieces of wood, etc.) that can get caught in a head of lettuce during harvesting. Second, if the vibrating feed screen was configured to separate core pieces from leaf pieces, there would be no need to use the airstream.

Therefore, the vibrating feed screen does not separate the core portions from the leaf portions. Instead, it separates the non-lettuce material from the mixture of core and leaf portions. Thus, Applicants assert that claim 1, 15 and 16 as amended are allowable over Hofmeister because Hofmeister does not disclose or suggest a sorting mechanism made up of screens having apertures

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suitable for separating the core pieces from a mixture. Applicants also assert that the rest of the pending claims are allowable for at least the reason that they depend from an allowable independent claim. Applicants therefore assert that all pending claims are allowable over Hofmeister.

II. Claim rejections – 35 U.S.C. § 103

A. Claims 3, 6-8, and 19

The Examiner has rejected claims 3, 6-8, and 19 as being unpatentable over Hofmeister. Claims 3 and 6-8 depend from independent claim 1. Claim 19 depends from independent claim 16. Thus, Applicants assert that claims 3, 6-8, and 19 are allowable for at least the reason that they depend from allowable independent claims.

B. Claims 4-5, 20-21

The Examiner has rejected claims 4-5, 20-21 as being unpatentable over Hofmeister in view of Jacobson. Claims 4-5 depend from independent claim 1. Claims 20-21 depend from independent claim 16. Applicants assert that claims 4-5, 20-21 are allowable for at least the reason they depend from allowable independent claims.

C. Claims 9-13

The Examiner has rejected claims 9-13 as being unpatentable over Hofmeister in view of Jacobson in further view of Miyamoto. Claim 9-13 depend from independent claim 1. Applicants assert that claims 9-13 are allowable for at least the reason that they depend from an allowable independent claim.

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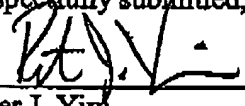
III. Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 145642000100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: May 8, 2006

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